(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

MISCELLANEOUS CIVIL APPLICATION NO. 449 OF 2004
IN FIRST APPEAL NO. 327 OF 2003

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri V. R. Tamba, advocate for the applicants.

Shri J. E. Coelho Pereira, Senior Advocate with Shri V. Braganza, advocate for the respondents.

CORAM : S. A. BOBDE &
N. A. BRITTO, JJ.

DATE : 3rd August, 2004

P.C.:

The appellants have appealed against the following Order:-

ORDER

The suit of the plaintiff is decreed granting the relief of prayer (a) wherein defendants 1, 2 and 3 are ordered jointly and severally to pay a sum of Rs.72,000/- as on 2.8.79 and further compensation at the rate of Rs.2000/- per month till the new premises is given to the plaintiff on lease in terms of Agreement dated 2.6.1976 alongwith water tank and cooling tower and also further sum of Rs.3900/- with interest of 14% per annum thereon from the date of institution of suit till the actual payment, prayer (b) wherein defendants are

> ordered to specifically perform the contract/agreement dated 2.6.1976 to give to the plaintiffs on lease by executing the lease agreement the new premises alongwith water tank and cooling tower as delineated in a plan annexed to the Agreement dated 2.6.1976 within reasonable time and to do all acts necessary to put the plaintiff in full possession of the new premises with a access to the water tank and cooling tower. The rent to be fixed in terms of Section 12 of the Rent Act. The relief of compensation of Rs.15,00,000/- claimed in para (c) is rejected. Counter claim of defendants is dismissed.
>
> Decree be drawn accordingly."

2. As a condition precedent for stay the applicants have been directed to deposit the decretal amount. There is a dispute now as to what is the decretal amount. Shri Tamba, learned counsel for the respondents states that the applicant must deposit interest at the rate of 14% per annum, not only on Rs.3,900/-, but also on compensation at the rate of Rs.2,000/-. On a prima facie reading of the prayer clause, it

appears that 14% interest is claimed on the sum of Rs.3,900/-. The learned counsel for the respondents states that the respondents had prayed for interest on both the sums, i.e. compensation at the rate of Rs.2,000/- per month and also Rs.3,900/- and, therefore, used the word "interests". If that be so, then the trial Court has clearly used the word in singular while granting the decree. It appears that the trial Court has granted only "interest" on Rs.3,900/-. In any case, the applicants have shown their bona fides and have deposited the amount. This issue raised by the respondents can be decided at the time of final hearing.

Hence Miscellaneous Civil Application is dismissed.

S.A. BOBDE, J.

N.A. BRITTO, J.

1